

23-23-701

ORIGINAL

IN THE
SUPREME COURT OF THE
UNITED STATES

FILED
DEC 11 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PALANI KARUPAIYAN et al

---Petitioners

v.

ARNAUD VAISSIE et al

---- Respondents

On Petition for a Writ of Certiorari
to the United States Court of
Appeals for the Third Circuit
before judgment entered in that
Court (Dkt 23-2946)

**PETITION FOR A WRIT OF
CERTIORARI**

Palani Karupaiyan,
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I. QUESTION PRESENTED

Petitioner's prayed 4 reliefs were as Writ of Mandamus or Prohibition or alternative so the questions were part of three test condition requirement of the Writs.

II. PARTIES TO THE PROCEEDING

PALANI KARUPAIYAN; P. P.; R. P. are petitioners

Respondents are

ARNAUD VAISSIE, Individually and in his official capacity as CEO of International SOS;

DESSI NIKALOVA, Individually and in her official capacity as director, product engineering of the international SOS;

ACCESS STAFFING LLC;

MIKE WEISTEIN, Individually and in is official capacity as principal, product engineering of Access Staffing LLC;

KAPITAL DATA CORP;

KUMAR MANGALA, individually and in their official capacity as founder and CEO of the Kapital Data Corp;

KARUPAIYAN CONSULTING INC;

GREGORY HARRIS, individually and in his official capacity as team leader, mobile applications of the international SOS;

INTERNATIONAL SOS ("ISOS")

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V. PETITION FOR A WRIT OF CERTIORARI.

Petitioner respectfully prays that a Writ of Certiorari to review the opinion/ judgment/ orders of USCA3's (docket 23-2946) and US Dist Court for Eastern Dist of Pennsylvania (Dist docket 22-cv-3083) below.

VI. OPINION(S)/ORDERS/JUDGMENT(S) BELOW
(FROM DIST COURT AND USCA3)

1. Dist Court order dismissal of complaint for International SOS defendants. Jan 31 2023. Ecf-34 (**App.1**)
2. Dist Court order dismissal of complaint for Access Staffing defendants. Jan 31 2023. Ecf-35 (**App.8**)

Hon. NITZA I. QUIÑONES ALEJANDRO USDJ

3. **USCA3's docket 23-2946, Petition for Writ of Mandamus is pending.**

VII. JURISDICTION

In *Hohn v. United States*, 524 US 236 - Supreme Court 1998@ 258 (*Rosado v. Wyman*, 397 U. S. 397, 403, n. 3 (1970) (a Court always has jurisdiction to determine its jurisdiction)).

Hohn @264 ("We can issue a common-law writ of certiorari under the All Writs Act, 28 U. S. C. § 1651.)

Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 - Supreme Court 2012@ 643

The only source of authority for this Court to issue an injunction is the All Writs Act, 28 U.S.C. § 1651(a) and

Following a final judgment, they [Petitioner] may, if necessary, file a petition for a writ of certiorari in this Court.

USCA3's docket 23-2946, Petition for Writ of Mandamus is pending.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1) and USSC Rule 11.

VIII. CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED.

All Writs Act, 28 U.S.C. § 1651(a)

Title VII,

The Americans with Disabilities Act;

(iii) The Genetic Information Nondiscrimination Act;
and

(iv) The Age Discrimination in Employment Act

42 U.S.C. § 1981

42 US Code § 1988 - Proceedings in vindication of
civil rights

Pennsylvania Human Relations Act (PHRA),

26 U.S. Code § 7201. Attempt to evade or defeat
tax, 26 U.S.C. § 7203 and § 7206(1)

18 USC § 371 - Conspiracy to commit offense or to
defraud United States, 18 U.S.C. § 1956, money
laundering law.

Copyright Act of 1976, 17 U. S. C. §§ 101(2) and
201(a)

8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b
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8 U.S. Code § 1188

The Immigration and Nationality Act (INA) Section -
101(a)(15)(H)(i)(b).

20 C.F.R. § 656.17(e) (Labor Certification)

20 C.F.R. §655.101(b)(1) (Temp employment for
foreigner)

IX. STATEMENT OF THE CASE

a) DIST COURT OLD DOCKET

This case was previously docket with Dist Court of Eastern Pennsylvania. Docket#19-cv-2259, Docket entry 46 as below.

<u>46</u>	<p>ORDERED THAT PLAINTIFF'S AMENDED COMPLAINT IS DISMISSED WITHOUT PREJUDICE. IT IS FURTHER ORDERED THAT WITHIN 30 DAYS PLAINTIFF SHALL FILE A SECOND AMENDED COMPLAINT. DEFENDANTS MOTIONS TO DISMISS, PLAINTIFF'S MOTION FOR ACCEPTING ADDITIONAL EVIDENCE AND ADDITIONAL SIX MOTIONS, AND FOR ADDITIONAL TIME ARE ALL DENIED AS MOOT. THE CLERK OF COURT IS DIRECTED TO CORRECT PLAINTIFF'S NAME ON THE DOCKET. ETC.. SIGNED BY HONORABLE PETRESE B. TUCKER ON 5/6/2020.5/6/2020 ENTERED AND COPIES E-MAILED. NOT MAILED TO PRO SE.(sg,) (Emailed to litigant on 06/16/2020 per chambers),Modified on 6/16/2020 (nd,). (Entered: 05/06/2020)</p>
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Clearly the above docket entry stated Hon Judge TUCKER signed on May 6 2020 to amend the complaint within 30 days which was not emailed to prose plaintiff until Jun 16 2020.

This Old docket, Dist Court dismissed under *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984).

b) DIST COURT PROCEEDING AND RULING

On Aug 1 2022, Plaintiff filed employment related complaint against the respondents US Dist Court of Eastern PA under Title VII, Pennsylvania Human Relations Act (PHRA), and copyright and so on and timely served the complaint to all defendants.

On Nov 3 2022 Dist Court granted the forma pauperis and ordered the plaintiff to serve the complaint and summon. **ECF-17. App.18.**

On Jan 31 2023, District Court dismissed the 1st amended complaint for International SOS (ISOS) and Access Staffing on the basis of *Res Judicata*: **App.5 and App.12.**

In dismissal of complaint, Dist Court ruled that

Plaintiff contends that the judgment in the Prior Action was not "on the merits" because it was premised on pleading deficiencies under Rules 8 and 10 and on his failure to comply with Court Orders under Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984), Dist Court ruled that

"Plaintiff is correct as to the bases of the prior dismissal, he is incorrect as to the preclusive effect of such dismissals.

Timely Petitioner filed Notice of Petition for Writ of Mandamus, Prohibition or Alternative. **ECF-44.**

c) USCA3 PROCEEDING AND RULING

In the USCA3' Petitioners' Petition for writ of Mandamus is docketed 23-2946 and decision is pending.

X. INTERNATIONAL SOS'S BUSINESS

Defendant International SOS ("ISOS") is the world's largest medical and travel security services firm, which count nearly two-thirds of the Fortune Global 500 companies as clients. ISOS employed 10,000+ employees and 2 billion dollars revenue in USA which major revenue market of international SOS. ISOS home country is Britain/ Singapore.

XI. ISOS'S PURPOSE OF OUTSOURCE

The purpose of International SOS's outsourcing is to evade the Dept of Labor's Labor certification fee (which is perjury crime), Immigration fee, payroll tax to US and Local Govts, tax liabilities, properties tax to the Local Govts in US. Secretly, untraceably transfer the money out of US in the name of outsource into India and these tax evaded money is benefitted by International SOS's corporate officer who decided the outsourcing.

XII. ALL WRITS ACT, 28 U.S.C. § 1651(A)

In Pa. Bureau of Correction v. US Marshals Service,
474 US 34 - Sup Ct 1985 @43

"The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute".

XIII. RELIEFS SHOULD BE GRANTED UNDER RULE 8(A)(3) OR RULE 54(C) OR WITHOUT RULE 12(B)'S REQUIREMENT

In Bontkowski v. Smith, 305 F. 3d 757 - USCA, 7th Cir. 2002@762 "can be interpreted as a request for the imposition of such a trust, a form of equitable relief and thus a cousin to an injunction. Rule 54(c), which provides that a prevailing party may obtain any relief to which he's entitled even if he "has not demanded such relief in [his] pleadings." See Hott Civic Club v. City of Tuscaloosa, 439 U.S. 60, 65-66, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978);

In Boyer v. CLEARFIELD COUNTY INDU. DEVEL. AUTHORITY, Dist. Court, WD Penn 2021

"Thus a prayer for an accounting, like a request for injunctive relief, is not a cause of action or a claim upon which relief can be granted. Rather, it is a request for another form of **equitable relief**, i.e., a "demand for judgment for the relief the pleader seeks" under Rule 8(a)(3) of the Federal Rules of Civil Procedure. D****As such, it too is not the proper subject of a Rule 12(b)(6) motion. D***Global Arena, LLC, 2016 WL 7156396, at *2; see also Bontkowskiv. Smith, 305 F.3d 757, 762 (7th Cir. 2002).

XIV. S.Ct. RULE 11 & 28 USC § 2101(E).

a) **S.Ct Rule 11: Certiorari to a United States Court of Appeals Before Judgment** A petition for a writ of certiorari to review a case pending in a United States Court of appeals, before judgment is entered in that Court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. See 28 U. S. C. § 2101(e).

b) 28 U. S. C. § 2101(E).

An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the COURT OF APPEALS may be made at any time before judgment

XV. WHY USCA3 WAS NOT ABLE TO GRANT THE APPELLANT'S WRITS/ INJUNCTION(S) RELIEFS

In the Dist Court this petitioner filed i) Notice of appeal and ii) Notice of Petition for Writ of Mandamus, Prohibition or alternative. As per the Moses footnote [6], USCA3 shall not be able to grant the injunctive reliefs along with the appeal (USCA3's docketed 23-1948)

In Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460. US 1 - Supreme Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

XVI. USSC'S WRIT AGAINST LOWER COURT(S)

Bankers Life & Casualty Co. v. Holland, 346 US 379 - Supreme Court 1953@383

As was pointed out in Roche v. Evaporated Milk Assn., 319 U. S. 21, 26 (1943), the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal Courts has been to confine an inferior Court to a lawful

exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."

Bankers @383 there is clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in *De Beers Consolidated Minesv. United States*, 325 U. S. 212, 217 (1945).

XVII. PRO SE PLEADING STANDARDS

Erickson v. Pardus, 551 US 89 – Sup. Ct. 2007
@ 2200

A document filed pro se is "to be liberally construed," *Estelle*, 429 U.S., at 106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.

XVIII. USSC'S RULE 20.1 AND RULE 20.3.

In re US, 139 S. Ct. 452 - Supreme Court 2018 @ 453

S.Ct. Rule 20.1 (Petitioners seeking extraordinary writ must show "that adequate relief cannot be obtained in any other form or from any other Court" (emphasis added));

S.Ct. Rule 20.3 (mandamus petition must "set out with particularity why the relief sought is not available in any other Court"); see also *Ex parte Peru*, 318 U.S. 578, 585, 63 S.Ct. 793, 87 L.Ed. 1014 (1943) (mandamus petition "ordinarily must be made to the intermediate appellate Court").

USSC ruled in Moses 460 US 1 - Supreme Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976)

At USCA3, this case is pending and this petition is S.Ct's Rule 11 Petition.

The above Substitute the Test-1 of 3 tests requirement of grating the Writs in the US Supreme Court.

XIX. THREE TEST CONDITIONS FOR GRANT THE WRIT (OF MANDAMUS, PROHIBITION OR ANY ALTERNATIVE)

Test-1: No other adequate means [exist] to attain the relief [the party] desires (In re US, 139 S. Ct. 452)

Or it (injunction) is necessary or appropriate in aid of our jurisdiction (28 USC§ 1651(a))

Or "the party seeking issuance of the writ must have no other adequate means to attain the relief [it] desires";

Test-2: the party's right to [relief] issuance of the writ is clear and indisputable (In re US, 139 S. Ct. 452)

Or *Bankers Life & Casualty Co. v. Holland*, 346 US 379 – Sup.Ct 1953

clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in De Beers Consolidated Mines v. United States, 325 U. S. 212, 217 (1945).

Or *Hobby Lobby Stores, Inc. v. Sebelius*, 568 US 1401 – Sup.Ct 2012

whatever the ultimate merits of the applicants' claims, their entitlement to relief is not "indisputably clear

Or the Petitioner must demonstrate that the "right to issuance of the writ is clear and indisputable." *Cheney*, 542 U.S. at 380-81, 124 S.Ct. 2576

Or *Cheney v. United States Dist. Court for DC*, 542 US 367-Sup.Ct 2004

Defendant owes him a clear nondiscretionary duty

Test-3: a question of first impression is raised.

Or

"the issuing court, must be satisfied that the writ is appropriate under the circumstances (In re US, 139 S. Ct. 452)

XX. REASONS FOR GRANTING THE WRIT(S)

1) Writ against International SOS that ISOS should not discriminate the US citizenship AND favor of foreign nationals against US citizen in employment or in application for employment

Test-2: i) International SOS, Access Staffing removed from employment, denied employment to the petitioner because of his US Citizenship and employed the young foreigner instead of US citizen petitioner. ECF-24, FAC@134,147,137,138

Test-3: Favoring foreigner against US Citizen in employment is discrimination.

In *Novak v. World Bank*, No. 79-0641, 1979 U.S. Dist. LEXIS 11742 (D.D.C. June 13, 1979), the plaintiff argued that defendant had a policy of discriminating against United States citizens in violation of Title VII's prohibition against national origin discrimination. The Court held that such a claim — i.e., discrimination against U.S. citizens — alleges discrimination based only on citizenship and thus was barred by the holding in *Espinoza*¹. Id. at *3. (Cited in *English v. MISYS INTERNATIONAL BANKING SYSTEMS, INC.*, Dist. Court, D.NJ 2005)

In *Novak v. World Bank*, 20 Fair Empl. Prac. Cas. (BNA) 1166, 1167 (D.D.C.1979),

¹ *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88 (1973).

Discrimination against a United States citizen in favor of an alien has been labeled reverse Espinosa.

Reasons stated above, petitioner prays this Court for Writ that ISOS should not discriminate the US citizenship and favor the foreigner against US citizen in employment.

2) Order that (i) International SOS should not outsource it's IT/BPO jobs. (ii) International SOS should not involve in Tax evasion and Money Laundering against United States and its Local govt(s).

Test-2: International SOS outsourced the IT/ BPO jobs to India. ECF-24, FAC@265-267,270-271

Test-3: The foreigner employee(s) to do the US Corporate Jobs, the [potential] employer need to get approved Labor Certification² from Dept of Labor that No US Citizen is available to take the jobs. So the potential employer can hire foreign employee without discrimination US citizen. The outsourcing, put the foreigner at front, automatically discriminate the US citizen in employment. See 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa).

8 U.S. Code § 1188

The Immigration and Nationality Act (INA) Section - 101(a)(15)(H)(i)(b).

20 C.F.R. § 656.17(e) (Labor Certification³)

³ Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the

20 C.F.R. §655.101(b)(1) (Temp employment for foreigner)

When the International SOS IT Jobs/BPO Jobs were outsourced, International SOS involves Tax evasion including Payroll tax against United States and its Local govts. 26 U.S. Code § 7201. Attempt to evade or defeat tax, 26 U.S.C. § 7203 and § 7206(1)

ISOS outsourcing is violation in 18 USC § 371 - Conspiracy to commit offense or to defraud United States, 18 USC § 1956, money laundering law.

In Sullivan v. Little Hunting Park, Inc., 396 US 229 - Supreme Court 1969 @ 239-240

Compensatory damages for deprivation of a federal right are governed by federal standards, as provided by Congress in 42 U. S. C. § 1988, which states:

*"The jurisdiction in civil . . . matters conferred on the district Courts by the provisions of this chapter and **Title 18**, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect*

By-product of discriminating the US Citizen, Outsourcing cause the tax evasion, money laundering against the United States and local Govts, knowledge drain to Nation's STEM knowledge sector happening/happened.

job so the potential employer need to hire foreigner. In outsourcing, International SOS did not get Labor certification, simply outsourced and evaded the tax including payroll tax

For the above reasons, petitioner pray this Court for order that ISOS should not outsource the IT⁴/BPO⁵ jobs and should not involve tax evasion, Money laundering,

3) Order that International SOS should deposit to US treasury the 3 times of Money International SOS took out of United States by Outsourcing and lock/jail the International SOS's CEO when International SOS fail to deposit the money within 3 months of this Court order. Equal amount of money ISOS send out for outsourcing, ISOS need to pay the plaintiff/petitioner.

Test-2: International SOS outsourced the IT/ BPO jobs without US Dept of Labor certification⁶ that when US citizen were available and able to take the Jobs and evade the USCIS fees, Payroll tax against US and local govts i.e International SOS illegally outsourced and money laundered.

Test-3:

⁴ Information Technology Jobs

⁵ Back office, Business Process Outsourcing.

⁶ Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the job so the potential employer need to hire foreigner. In outsourcing, International SOS did not get Labor certification, simply outsourced and evaded the tax including payroll tax.

Any wrongdoing with Dept of Labor certification is perjury crime. 8 USC § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa)

By Illegal outsourcing, without Dept of Labor's Certification, International SOS did Tax evasion including payroll tax, money laundering, corrupt corporate business practices.

International SOS's CEO should be lock until these 3 times outsourced money recovered and deposited to US Treasury. These Top officials were personally economically benefitted/gained by outsourcing.

So petitioner prays this Court to order that ISOS should deposit 3 times of money to US treasury, the money ISOS took out of US thru outsourcing and lock these ISOS's CEO until all money recovered and deposited to US Treasury. These wrong doings were did by these Top officials were done knowingly, intentionally. Equal amount of money ISOS send out for outsourcing, ISOS need to pay the plaintiff/petitioner

4) Order that International SOS should pay the petitioner \$15 million dollars for [r]easonable money for time and effort of the [P]laintiff, pain and suffering and all expenses and costs of this action.

Test-2: When Petitioner tried to get attorney to representation to file the case, the attorney told that employment cases were complicated and requested the petitioner for down payment which was not affordable to the petitioner when the petitioner is unemployed, disabled status, and pauperis.

Test-3:

Without help of attorney, and attorney is unavailable to the petitioner, with petitioner spine injury, back pain, diabetic disability which eyes were blurring, petitioner drafted the complaint and this petition. For Petitioners multiple request, Lower Courts multiple time failed/denied to appoint attorney to the petitioners.

In *Boyadjian v. Cigna Companies*, 973 F.

Supp. 500 - Dist. Court, D. New Jersey 1997@504

Although plaintiff may not recover attorneys' fees, he may recover litigation costs reasonably incurred. See Cunningham, 664 F.2d at 387 n. 4; Carter, 780 F.2d at 1482; DeBold, 735 at 1043 (citing Crooker v. United States Dep't of Justice, 632 F.2d 916, 921 (1st Cir.1980)) ("[A] pro se litigant who substantially prevailed certainly is entitled to 'litigation costs reasonably incurred' A pro se litigant is made whole thereby, serving as a small incentive to pursue litigation if no attorney may be found to represent the litigant.")

Crooker v. Department of Justice, supra, holding that "in actions where the complainant represents himself, sometimes as a hindrance instead of an aid to the judicial process, an award of fees does nothing more than subsidize the litigant for his own time and personal effort"

So petitioner prays this Court's order that the International SOS to pay \$15 million the petitioner for the petitioner time, effort, pain and suffering for the petitioner(s) went thru in this proceeding.

XXI. CONCLUSION

Petitioner(s) Palani Karupaiyan, PP, RP pray(s) the US Supreme Court for the Petition for a Writ of Certiorari should be granted.

Respectfully submitted.

Palani Karupaiyan *Palani Karupaiyan* *DEC 12, 2023*

Palani Karupaiyan, Pro se, Petitioner
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